

FILED

FEB 26 2014

**New Jersey State Board of
Massage and Bodywork
Therapy Examiners**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MASSAGE AND BODYWORK
THERAPY

IN THE MATTER OF THE
APPLICATION OF

JIN YU BERNINGER

FINAL ORDER OF
DENIAL OF LICENSURE

TO PRACTICE MASSAGE ANDDD
BODYWORK THERAPY IN THE
STATE OF NEW JERSEY

This matter was opened to the Board of Mssage and Bodywork Therapy (the Board) upon receipt of information which the Board has reviewed and the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Jin Yu Berninger submitted an application for licensure by the Board in which she indicated that she had never been arrested or charged with any crime or offense, and had never been convicted of any crime or offense.

2. Ms. Berninger underwent a criminal history background check which indicated an arrest in 2004 for prostitution and disorderly conduct involving the use of obscene language or gestures. Records supplied by Ms. Berninger indicate the prostitution charges

were not prosecuted; Ms. Berninger entered a plea of nolo contendere to disorderly conduct involving the use of obscene language or gestures, and was sentenced to twelve months probation and a fine of \$1000.00.

3. The applicant claimed that she had not completely understood the questions relating to arrests and convictions. She indicated that the arrest took place in a Spa, and that she was convicted of practicing massage without a license and fined \$2,500.00.

CONCLUSIONS OF LAW

1. Ms. Berninger's failure to disclose her arrest and conviction constitutes misrepresentation with regard to an offense relating adversely to massage and bodywork therapy in violation of N.J.S.A. 45:1-21(b).

Based on the foregoing findings and conclusions, a Provisional Order of Denial of Licensure was entered on October 4, 2013, provisionally denying Ms. Berninger's application for licensure. A copy of the Order was forwarded to Ms. Berninger by certified and regular mail at her address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Ms. Berninger requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said

findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Ms. Berninger's request for consideration and reasons therefor.

The record reflects that the certified mailing of the Provisional Order was signed for, and the regular mailing of the order was not returned. No response has been received to date. The Board determined that service had been effected, as the mailings had been sent to Ms. Berninger's address of record with the Board. The Board further determined that as no discrepancies had been raised with respect to the findings and conclusions of provisional order, additional proceedings were not necessary, and the Provisional Order should be made final.

ACCORDINGLY,

IT IS on this 26th DAY of February, 2014,

ORDERED that:

1. Ms. Berninger's application for licensure as a massage and bodywork therapist in New Jersey is hereby denied. The Board will not entertain any subsequent application for licensure from Ms. Berninger for a period of two years, dating from the entry of this order.

NEW JERSEY STATE BOARD OF
MASSAGE AND BODYWORK THERAPY

By:


Deborah Overholt
Chairperson